

FRUITS AND VEGETABLES**CANNED FRUIT**

30471. Canned peaches. (F.D.C. No. 51898. S. No. 79-500 B.)

QUANTITY: 730 cases, each containing 24 1-lb. 13-oz. cans, at Lexington, Ky.

SHIPPED: 8-13-65, from Gramling, S.C., by the Gramling Canning Co., Inc.

LABEL IN PART: (Can) "Gramling Tree Ripened Yellow Freestone Peaches Halves In Heavy Syrup * * * Packed by Gramling Canning Co. Inc., Gramling, S.C."

LIBELED: 12-9-65, E. Dist. Ky.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned peach halves, since all peach units of the article tested were not pierced by a weight of not more than 300 grams, and since the weight of the largest unit in the container was more than twice the weight of the smallest unit; and its label failed to bear, as specified by regulations, a statement that it fell below such standard.

DISPOSITION: 2-9-66. Consent—claimed by Gramling Canning Co., Inc., for relabeling.

30472. Canned grapefruit, pineapple, and corn. (F.D.C. No. 52166. S. Nos. 55-129/32 B.)

QUANTITY: 8 cases, each containing 24 1-lb. cans of grapefruit, 60 cases, each containing 24 1-lb. 4-oz. cans of pineapple, 49 cases, each containing 6 unlabeled cans of yellow corn, and 39 cases, each containing 24 1-lb. cans of cream-style golden corn, at Baltimore, Md.

SHIPPED: 6-25-65, from New York, N.Y.

RESULTS OF INVESTIGATION: Examination showed that the articles had been water, smoke, and fire damaged, and that the cans were dented, rusted, and pitted, with some leaking or swollen, and others heat damaged or smoke blackened. Some of the labels were partly or entirely missing.

LIBELED: 1-28-66, Dist. Md.

CHARGE: 402(a)(3)—while held for sale, the articles contained a decomposed substance; 402(a)(4)—the articles had been held under insanitary conditions; and 403(e)—both lots of canned corn had cans that failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents.

DISPOSITION: 3-1-66. Default—destruction.

MISCELLANEOUS FRUIT PRODUCTS

30473. Orange juice. (Inj. No. 358.)

COMPLAINT FOR INJUNCTION FILED: 6-10-59, S. Dist. Tex., against Cal-Tex Citrus Juice, Inc., Houston, Tex., Gordon E. Van Liew, president, Dell Van Liew, vice president, and Arthur R. Becker, secretary-treasurer of the corporation.

NATURE OF BUSINESS: The complaint alleged that the defendants were engaged in the business of preparing, processing, packaging, selling, and distributing

an article represented to be orange juice; and that in conducting such business the defendants employed essentially the following method of operation:

(a) quantities of fresh oranges, which had been grown in Texas, Mexico, Florida, and California, were purchased by the defendants and delivered to the defendants' plant at Houston, Tex.;

(b) upon receipt at the defendants' Houston plant, the oranges were processed to express the juice therefrom, and water and sugar were added to and mixed with the juice;

(c) the orange juice to which water and sugar had been added was placed in tank trucks, or in 10-gallon milk cans for bulk distribution, or was prepared for distribution by packaging in 1-quart milk bottles, or in 1-quart milk-type cartons labeled in part as follows:

(Cartons) "Fresh Orange Juice"

or

"Fresh Orange Juice

as nature made it

. . . nothing added"

(d) the orange juice to which water and sugar had been added was sold and distributed in the aforesaid containers by the defendants to customers in the State of Texas and elsewhere under representations that it was a food consisting solely of orange juice.

CHARGE: The complaint alleged that the above-mentioned article, when sold and distributed as described above, was adulterated and misbranded as follows: 402(b)(2)—water and sugar had been substituted in part for orange juice which the article was represented to be; 402(b)(4)—water and sugar had been added to and mixed with orange juice so as to increase its bulk and reduce its quality and strength; 403(a)—the labeling of the article contained false and misleading representations and suggestions that the article consisted solely of orange juice; 403(b)—the article was offered for sale under the name of another food; and 403(i)(2)—the label of the article failed to bear the common or usual name of each ingredient.

The complaint alleged further that the defendants were violating the Act (1) by causing the introduction and delivery for introduction into interstate commerce of the above-mentioned article which was adulterated and misbranded as specified above; and (2) by causing an act to be done with respect to orange juice while held for sale after shipment in interstate commerce, namely, by causing water and sugar to be added to the juice of oranges that had been shipped into Texas and causing such juice with added water and sugar to be represented, sold, and distributed as a food consisting solely of orange juice, which act resulted in such orange juice being adulterated and misbranded as specified above.

DISPOSITION: On 6-10-59, a temporary restraining order was entered enjoining the defendants against the acts complained of. On 6-19-59, a hearing was held on the Government's motion for a preliminary injunction and after consideration of the pleadings, the evidence and argument of counsel, the court ordered that the motion for preliminary injunction be denied and that the temporary restraining order be dissolved. On 2-29-60, the court dismissed the injunction action without prejudice.

30474. Orange juice. (F.D.C. No. 42487. S. Nos. 28-918 P et al.)

INDICTMENT RETURNED: 3-1-60, S. Dist. Tex., against Gordon E. Van Liew, Dell Van Liew, Arthur R. Becker, and Verne C. Madison, of Houston, Tex.